

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	
Provision of Directory Listing Information)	CC Docket No. 99-273
Under the Communications Act of 1934,)	
As Amended)	
)	
The Use of N11 Codes and Other Abbreviated)	CC Docket No. 92-105
Dialing Arrangements)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan)	

COMMENTS OF THE INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

The Independent Telephone & Telecommunications Alliance (“ITTA”) hereby submits its comments in response to the Commission’s Notice of Proposed Rulemaking (the “Notice”) in the above-captioned proceedings.¹

I. INTRODUCTION

ITTA is an organization of midsize local exchange carriers. Many ITTA members operate both as incumbent local exchange carriers (“ILECs”) and as competitive local exchange carriers (“CLECs”). ITTA members collectively serve more than eight million access lines in over 40 states, where they and their affiliates offer a diversified range of services, including telephone exchange, exchange access, interexchange, and information services, to their customers. ITTA’s smallest member company serves just under one hundred thousand access lines, while its largest serves more than two million. Most ITTA members qualify as rural

telephone companies within the meaning of Section 3(37) of the Communications Act of 1934 as amended (“Act”).²

II. SUMMARY

Mandatory presubscription to 411 services will solve no identifiable market failure and will impose substantial costs. The directory assistance (“DA”) market is already competitive. Most consumers use 411 relatively infrequently, and heavy users of DA services already have easy access to a wide variety of competitive choices. Even infrequent users have a choice of at least their local ILEC and several national providers. Thus, the proposed rule, however well intentioned, seeks to provide a solution to a non-existent problem.

Moreover, any minimal gain in DA competition that presubscription could facilitate pales in comparison to the prodigious costs of implement such a requirement. The potential costs to industry – and ultimately consumers – have been vastly understated by Telegate and would far outweigh the likely benefits of this mandate.

III. THE COMMISSION HAS ALREADY RECOGNIZED THAT DIRECTORY ASSISTANCE IS COMPETITIVE.

In the Notice, the Commission asks “whether the directory assistance market is sufficiently open to competition that further regulatory action is unnecessary.”³ The answer is an unqualified yes. Indeed, in 1999 the Commission acknowledged that there were already many alternative providers of directory assistance offering service “at comparable cost and quality to

¹ *Provision of Directory Listing Information Under the Communications Act of 1934, as Amended*, CC Docket Nos. 99-273, 92-105, and 92-237, Notice of Proposed Rulemaking, FCC 01-384 (2002).

² 47 U.S.C. § 153(37).

³ Notice at 1.

those of the incumbents.”⁴ Even a cursory glance at how the marketplace has developed shows that nationwide powerhouses such as AT&T⁵ and MCI⁶ offer competitive directory assistance services, as do numerous smaller providers around the country.⁷ Furthermore, next generation voice portal services are developing rapidly without Commission interference. For example, Tellme’s “Dialtone 2.0” product offers “a world where callers pick up any phone and are immediately greeted with easy-to-understand voice prompts. They simply say what they want to do and an intelligent network connects them to the person.”⁸ Furthermore, numerous Internet directories, such as www.whitepages.com, www.infospace.com, www.people.yahoo.com, www.WhoWhere.com, www.Switchboard.com, www.superpages.com, www.smartpages.com, and www.Anywho.com can already be accessed by the Internet and by web-enabled phones. In short, there is every reason to believe that the DA marketplace that is wide open, and is continuing to expand and innovate.

⁴ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No 96-98, FCC 99-238, released November 5, 1999 at ¶ 446 (“UNE Remand Order”).

⁵ “AT&T 00 INFO” service also provides yellow pages information and reverse look-up information – callers provide a phone number and AT&T provides the corresponding name and address. See <http://www.consumer.att.com/00info/features.html#reverse>. *All Websites cited were visited on March 27, 2002.*

⁶ WorldCom’s 10-10-9000 costs 99 cents and provides two listings per call, including call completion.

⁷ See UNE Remand Order at ¶ 448 (“Even requesting carriers advocating the unbundling of operator and directory assistance services acknowledge that there exists a substantial number of alternative providers of operator and directory assistance services. For example . . . McLeod USA self-provisions nationwide directory assistance service. Metro One provides OS/DA services to ALLTEL and GST Telecom. Cox and Omnipoint obtain OS/DA service from Teltrust, and WinStar obtains these services from Frontier. Requesting carriers may also obtain OS/DA services and directory listings from numerous wholesale providers, including CenturyTel Telecommunications, Clifton Forge, Consolidated Communications, Excell, Experian’s TEC Group, Frontier, HebCom, InfoNXX, Metro One, Quest411 and Teltrust.”)

⁸ <http://www.tellme.com/about/>. Although Tellme does not provide directory assistance service through its “800-555-TELL” service, its technology does power AT&T’s nationwide tollfree directory service. <http://www.tellme.com/customers/>.

Most callers to directory assistance fall into one of two categories: heavy business users and occasional consumer callers. Neither group would benefit from Telegate's 411 presubscription scheme.

A. Heavy Business Users

Heavy business users account for a substantial percentage of all DA inquiries, and would derive little benefit from mandatory presubscription because they already have full access to competitive services. ITTA members report from first-hand experience that heavy business users of DA services are mostly collection agencies, research groups, marketing companies, pollsters, alumni associations, delivery companies, private investigators, and telemarketing firms.

These heavy users are already able to access a range of DA competitors with ease. Heavy users are able simply to program speed dial buttons on their phones that enable them to reach any chosen competitive provider of DA services with the push of a single button. Thus, reaching a preferred provider today requires no more effort than it would to reach 411. In addition to making arrangements with over-the-phone DA providers, these heavy users are turning more frequently to internet databases such as MFI's Reach™ National Directory Assistance product that employs "a unique combination of software applications and dynamic network configurations" to allow users "to search on a real time basis, the directory assistance databases of Ameritech, Bell South, Cincinnati Bell, PacBell, QWEST, Southern New England Telephone, Southwestern Bell, and Verizon."⁹

B. Occasional Consumer Callers

⁹ See <http://www.masterfiles.com/reach411.asp>, and http://www.reachdirect.com/demo/t_demo.asp (interactive demonstration).

Occasional consumer callers would derive no public interest benefit from 411 presubscription and, as discussed in greater detail below, would be financially harmed by such a requirement. Even assuming that the market size numbers proffered by Telegate are accurate,¹⁰ the average American spends more each month on chewing gum than on calls to directory assistance.¹¹ In fact, many Americans pay nothing for DA service each month because most ILECs allow consumers some number of free calls to directory assistance every month.¹² In addition, the same speed dial options that are available to heavy business users also are available to consumers that wish to preselect a provider of DA services other than the one available by dialing 411.¹³

A brief check of the competitive marketplace reveals that, even in 1998, a large majority of residential customers called directory assistance three times or less each month.¹⁴ ITTA member carriers indicate that on average they now provide residential consumers between

¹⁰ Telegate says the overall DA market is \$3b per year. Notice at ¶ 30 (citing Telegate Proposal at 14).

¹¹ Even if there were no heavy users and all current calls to directory assistance were made by or on behalf of 285 million Americans, the current cost per month per American for directory assistance services is \$0.88. By contrast, the domestic chewing gum market is estimated at \$4.2b per year and the cost per month per American for chewing gum is a \$1.23. See William Troxler, "Chewing Gum, The Yellow Rose of Texas, and a Bearded Dragon," part of the Capitol College Essay Series, available at <http://www.capitol-college.edu/troxler/essay14.html>. And once heavy users of DA services are accounted for, it is likely that the average American spends more money on the Wrigley's brand of gum alone than on calls to directory assistance. See Wm. Wrigley Jr. Co. Annual Report 2001 (available at http://www.wrigley.com/wrigley/investors/investors_index.asp)

¹² All customers in Massachusetts, for example, receive ten free calls per month to directory assistance. M.G.L. Chapter 159, § 19A.

¹³ Speed dial buttons are now virtually universal. Phones with one-touch memory buttons can now be purchased for nine dollars. See e.g. "Euro-Style Memory Phone With Lighted Dial And Three 'One-Touch' Memory Dial Buttons, Ten 'Two-Touch' Memory Positions, Mute, Pause, Flash, And Last Number Redial; Model TL-9; Available For \$9.00 (as of March 27, 2002) at <http://www.1877ftyoutl.com/category.asp?category=telephonesRef>.

one and two free calls to directory assistance per month,¹⁵ and that the typical residential consumer calls for directory assistance only once per month.¹⁶ These numbers clearly demonstrate that most consumers would not benefit from forced presubscription because they use directory assistance so infrequently, and because they spend such a comparatively small amount of money on the service.

IV. TELEGATE’S LOWBALL COST ESTIMATES ARE UNSUPPORTED AND UNRELIABLE

Instead of competing in the open marketplace for directory assistance, Telegate has asked the Commission to force American carriers and consumers to incur tens if not hundreds of millions of dollars in costs, so that Telegate can enter the American market more easily. To advance its cause, Telegate cites “estimates” that it would cost American carriers “less than \$23 million” to implement Telegate’s plan to access the DA market.¹⁷ These numbers are highly suspicious. To begin with, the “source” that Telegate cites for these numbers is neither quantitative nor objective. Instead, it is an advocacy piece that was created for Telegate

¹⁴ See Pacific Bell Press Release at <http://www.pacbell.com/About/NewsCenter/ShowRelease/0,1120,19980501-01,00.html?NID=1998>.

¹⁵ Rates, number of free calls allowed, and numbers of calls made vary by carrier and by state. According to a year 2000 release by the Tennessee Regulatory Authority, BellSouth was allowing six free Directory Assistance calls per month for residential and business subscribers with an allowance of two (2) inquiries per DA request. See <http://www.state.tn.us/tra/telecomfiles/dafeeinfo.htm>. Similarly, Qwest is providing three free calls per month in some jurisdictions, <http://www.psc.state.mt.us/press/2001-5-30qwestda.htm>, as is Verizon. In fact, DA services are so competitive that Verizon appears to consider them a commodity: Verizon offers unlimited local directory service as part of a standard local package to Washington DC residential customers. See <http://www22.verizon.com/ForYourHome/SAS/ProdDesc.asp?id=1764&state=DC>.

¹⁶ For one ITTA member carrier, consumers in many states get three free calls per month (including Arizona, Idaho, Michigan, Montana, and Utah), and in Ohio and Tennessee consumers can call for local DA as often as they like for no charge.

¹⁷ Telegate Proposal at 14.

by the “Skyline Marketing Group.”¹⁸ This advocacy piece, in turn, offers no quantitative analysis to support Telegate’s numbers. Instead, it cites “Industry contacts” and “Skyline Marketing Group estimates” as its basis for creating these numbers.¹⁹

Furthermore, Telegate’s assertion that “the total investment – nationwide” to implement its proposed DA presubscription plan “would be less than \$23 million,” is undermined by its own marketing report, which states that:

There are a number of costs that are not included above [in the tables] that will have to be borne by the incumbent LEC. These include:

- * The cost of equipping the local switches with AIN 0.1 software functionality for those switches not already equipped,
- * The cost of activating the 411 trigger, and maintaining local switch translations, and
- * The cost of process changes in the ILEC SOP to acquire and transmit the presubscribed DA provider to the SMS/service center.²⁰

Telegate’s marketing report further acknowledges that its estimates do not account for “any ILEC costs associated with DA trunking” or the “incremental load on the SS7 network.”²¹ Telegate also “estimates” that it will cost carriers an additional \$7.1 million per year for the

¹⁸ The Telegate proposal at page 14 cites paragraph 51 of an attached affidavit of John M. Celentano of the Skyline Marketing Group, and according to the website for the Skyline Marketing Group, that marketing firm is John Celentano. *See* <http://www.skymarketing.com/aboutus.html> (listing only John Celentano under “biographies”) and <http://www.skymarketing.com/services.html> (offering “An retainer service [sic] that provides full-access to Skyline Marketing Group research and the firm's principal on an as-required basis.”)

¹⁹ Telegate Proposal, Attachment A, page 26. This advocacy piece is already more than two years old, calling its reliability today further into question. *See* Telegate Proposal, Attachment A, page 34 (showing March 10, 2000).

²⁰ Telegate Proposal, Attachment A, page 27.

²¹ *Id.* at page 28.

indefinite future as well.²² To add insult to injury, Telegate further “urges the FCC to order a process of balloting and allocation,” but neglects to count the additional \$345 million²³ that balloting would cost to implement.

Therefore, ITTA believes that the average consumer would be harmed by forced presubscription because the costs of implementing and maintaining a forced presubscription system would be spread across all residential users even though only a small minority of them would likely use the presubscription program. Furthermore, it is highly questionable that presubscription would provide even the minority group of heavy users any value given that, as discussed above, speed-dial options already allow DA users to obtain one-touch access to whatever alternative provider they desire. The Commission should not cause hundreds of millions of dollars to be spent when there is no evidence that anyone other than Telegate would benefit from this plan.

V. THE COSTS OF MANDATORY 411 PRESUBSCRIPTION WOULD FAR OUTWEIGH THE BENEFITS

A. Implementing presubscription would impose substantial costs on ITTA members, wholly out of proportion to any minimal and speculative benefit.

In addition to being unreliable, many of Telegate’s assumptions are simply inapplicable to small and midsize carriers. For example, the Telegate marketing report assumes

²² Telegate Proposal at 14.

²³ The Telegate Proposal at p. iii “estimates that this can be accomplished for slightly more than \$1.00 per line.” Specifically, Attachment B to the Telegate Proposal suggests a figure of \$1.13 per line. These numbers are both optimistic and out of date. Nevertheless, according to Commission figures, there are 192 million switched access lines and 114 million wireless lines in the United States. *Local Telephone Competition: Status as of June 30, 2001*, Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division (rel. Feb. 27, 2002). Even assuming Telegate’s estimate is correct, therefore, balloting at \$1.13 per line would cost a total of \$345,780,000.

that all carriers use SS7, AIN technology, and have 30,000 lines per central office switch.²⁴

Most ITTA members, for example, have not deployed AIN technology and have no plans to do so. Furthermore, the average rural carrier serves only approximately 1,250 lines per local switch,²⁵ and even the large, non-rural carriers fall well short of Telegate's estimate, serving fewer than 7,200 lines per local switch, on average.²⁶

One ITTA member company operates a carrier with less than 1,500 access lines, and this company estimates that it would cost at least \$47,423 to purchase and install switch software and make the necessary modifications to its billing system to implement the system that Telegate proposes. If the Commission forces this company to implement presubscription to DA it should be aware that the first-year costs alone will be in excess of \$33.26 per access line²⁷ and that these costs are likely to be borne primarily by the rural consumers who depend on these lines for critical services.²⁸

B. ITTA Agrees With Other Commenters On Additional Issues.

In its comments, ITTA focuses primarily on the cost/burden analysis. ITTA, however, agrees with other commenters who demonstrate that there are many other fatal flaws in the Commission's proposal to require presubscription to DA. These flaws include mammoth

²⁴ See Telegate Proposal, Attachment A, page 27.

²⁵ Rural Task Force, The Rural Difference, White Paper #2 at Figure 15 ("Average Lines per Local Switch").

²⁶ Id. (showing an average of 7,188 lines per switch for non-rural carriers).

²⁷ This number does not even include the inevitable and significant costs related to database development and query transport services. Furthermore, it should be noted that all consumers will incur these costs even though a small minority of heavy users use 411.

²⁸ Telegate essentially acknowledges this on pages 15-16 of its proposal when it notes that Bell Atlantic in Washington DC (now Verizon), "is already collecting a surcharge of \$0.46 per month per subscriber for LNP implementation."

technical difficulties, irreconcilable jurisdictional and enforcement problems, and the inevitable and costly problems of slamming and cramming.²⁹

²⁹ *See, e.g.* USTA Comments, CC Docket Nos. 99-273 and 98-67 (filed May 30, 2000).

VI. CONCLUSION

Mandatory presubscription to 411 is a solution in search of a problem. The fact that a potential market entrant would benefit from a massive and expensive regulatory mandate is not reason to force presubscription. Heavy business users and casual consumers alike already have easy access to competitive options. Consumers who, today, use DA services infrequently and pay virtually nothing for the service, should not be forced to foot the bill for the massive network overhaul, let alone the administrative costs of balloting. The Commission should reject Telegate's proposal.

Respectfully submitted,

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